

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 30, 2005

DIVISION ONE

B163612 People (Certified for Publication)
v.
Torres

The judgment of conviction is affirmed. The judgment in the sanity phase is reversed and the matter is remanded for a new sanity hearing. If defendant is found to have been sane at the time of the commission of the offenses, he should be resentenced. On resentencing, the aggregate term to be imposed cannot exceed 12 years plus two consecutive terms of life imprisonment with the possibility of parole, and the abstract of judgment should not contain the notation that Penal Code section 2933.5, subdivision (a)(2)(O), is applicable to the case.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

B175195 Garcia (Not for Publication)
v.
Mortgage Investors Corporation et al.

The judgment (June 17, 2004, order of dismissal) is reversed and the matter remanded for further proceedings. Garcia is awarded his costs on appeal.

Suzukawa, J. (Assigned)

We concur: Mallano, Acting P.J.
 Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B166050 Armijo (Certified for Publication)

v.
Miles et al.

The order and judgment of dismissal are reversed and the matter is remanded for further proceedings. The trial court is directed to vacate its order sustaining defendants' demurrers, to enter a new order overruling them, and to grant defendants time to file their answers. The parties are to bear their own costs on appeal.

Spencer, P.J.

We concur: Mallano, J.
 Suzukawa, J. (Assigned)

B167888 Angela F. (Not for Publication)

v.
County of Los Angeles

We affirm the judgment. Defendants are awarded costs but not attorney fees on appeal.

Suzukawa, J. (Assigned)

We concur: Spencer, P.J.
 Mallano, J.

B172883 Coalition of Free Men et al. (Not for Publication)

v.
State of California

The judgment (December 5, 2003, "Ruling on Injunction, Declaratory Relief, and Writ of Mandate") is affirmed.

Suzukawa, J. (Assigned)

We concur: Spencer, P.J.
 Mallano, J.

March 30, 2005 (Continued)

DIVISION ONE (Continued)

B169609 Action Wholesale Electric Supply, Inc. (Not for Publication)
v.
Baker Cold Storage, Inc.

The judgment is reversed. Action is awarded its costs on appeal.

Spencer, P.J.

We concur: Mallano, J.
 Suzukawa, J. (Assigned)

B171999 People (Not for Publication)
v.
McFarland, Jr.

We affirm the judgment.

Suzukawa, J. (Assigned)

We concur: Mallano, Acting P.J.
 Vogel (Miriam A.), J.

DIVISION TWO

B177171 People (Not for Publication)
v.
Norwood

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

March 30, 2005 (Continued)

DIVISION TWO (Continued)

B173046 People (Not for Publication)
v.
Fernandez

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Nott, J.

B173154 Cohen, et al. (Not for Publication)
v.
Tifaeret-Teman Corporation

The order of the trial court is affirmed. Respondent(s) to recover costs.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

B164474 Navarette, et al. (Not for Publication)
v.
Tuttle, et al.

The judgments of the trial court are affirmed. Respondent(s) to recover costs.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

DIVISION TWO (Continued)

B174329 In re Adam S. Jr. et al.,
Los Angeles County, D.C.S. (Not for Publication)
v.
Adam S. Sr.

The juvenile court's orders are affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
Doi Todd, J.

B173175 People (Not for Publication)
v.
Walker

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
Doi Todd, J.

B166377 Truck Insurance Exchange (Not for Publication)
v.
PacifiCare Health Systems, Inc.
Texas Farmers Insurance Company

The judgment is reversed. Respondents to bear all costs on appeal.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

DIVISION THREE

B175091 Bacolod (Not for Publication)

v.

Superior Court of Los Angeles County

The order is affirmed. Bacolod shall bear costs on appeal.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B166862 Sharp (Not for Publication)

v.

Gray, York & Duffy, et al.

The trial court order overruling defendants' demurrers and denying defendants' motions to strike are affirmed. Plaintiff is entitled to recover costs on appeal.

Kitching, J.

We concur: Klein, P.J.
 Aldrich, J.

B174690 Grewal (Not for Publication)

v.

Martin , et al.

The judgment is reversed. This case is remanded to the trial court for proceedings consistent with this opinion. Plaintiff is entitled to recover costs on appeal.

Kitching, J.

We concur: Klein, P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B172599 People (Not for Publication)
v.
Arrizon

The judgment is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B174798 People (Not for Publication)
v.
Rafael M.

The order of wardship is modified by modifying probation condition numbers 15 and 21, to read "Do not associate with anyone known by you to be disapproved of by your parents or the probation officer," and "Do not use or possess narcotics, controlled substances, marijuana and tobacco, poisons, or related paraphernalia; stay away from places known by you to be places where users congregate," respectively. As modified, the order of wardship is affirmed.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

B165153 Lujano, et al. (Not for Publication)
v.
Regents of the University of California

The order granting the Regents' motion for new trial is affirmed. No costs are awarded.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION THREE (Continued)

B179503 21st Century Insurance Company (Certified for Publication)

v.
Superior Court, Los Angeles County
(James Schwartz, et al., r.p.i.)

The order to show cause is discharged and the petition is denied. Real parties in interest James and Jobeth Schwartz are to recover their costs in this proceeding.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B169291 People (Not for Publication)

v.
Rogelio R.

The judgment is ordered modified to strike the suspended parole revocation fine imposed under section 1202.45. The clerk of the superior court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting the modification. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
Kitching, J.

B175334 Los Angeles County, D.C.S.

v.
Latrina T., et al.

Filed order modifying opinion. (No change in the judgment)

March 30, 2005 (Continued)

DIVISION FOUR

B174826 Pioneer Electronics (USA), Inc. (Certified for Publication)

v.

Superior Court, Los Angeles County
(Olmstead, r.p.i.)

Let a peremptory writ of mandate issue directing the superior court to vacate its order allowing disclosure and contact if no response from the consumer; to conduct further proceedings; and to enter a new order consistent with the views expressed in this opinion. The alternative writ, having served its purpose, is discharged. Petitioner to have its costs pursuant to California Rules of Court, rule 56 (l)(1).

Epstein, P.J.

We concur: Hastings, J.
Curry, J.

DIVISION FIVE

B168206 Roll International (Not for Publication)

v.

Unilever United States

The judgment is affirmed. Each party to bear their own costs.

Mosk, J.

We concur: Armstrong, Acting P.J.
Kriegler, J. (Assigned)

DIVISION SIX

B173785 Wellman

v.

Rodman

Filed order denying petition for rehearing.

March 30, 2005 (Continued)

DIVISION SIX (Continued)

B175477 People (Not for Publication)
v.
Collett

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

DIVISION SEVEN

B175788 Los Angeles County, D.C.S. (Not for Publication)
v.
Rosalie S.,

The dispositional order is reversed and the matter is remanded to the dependency court with directions that within 10 days of the remittitur, pursuant to ICWA and rule 1439 of the California Rules of Court, the Department provide the appropriate tribe or tribes and the BIA with proper notice, which should include Mother's and her paternal great-grandmother's maiden names and other pertinent information, of the pending proceedings and that the Department file proof of the receipt of such notices by the tribes, along with a copy of the notices and any responses, with the dependency court.

If, after notice is properly given, no tribe responds indicating Desiree is an Indian child within the meaning of ICWA, the court shall reinstate the dispositional order. If a tribe determines Desiree is an Indian child, the dependency court shall vacate the detention and disposition orders and conduct the detention and disposition hearings applying the provisions of the ICWA, section 360.6 and rule 1439 of the California Rules of Court.

Zelon, J.

We concur: Perluss, P.J.
Johnson, J.

March 30, 2005 (Continued)

DIVISION SEVEN (Continued)

B173934 People (Not for Publication)
v.
Gates

The judgment of conviction is affirmed. Defendant's sentence is vacated and the cause is remanded to the trial court for resentencing, with the trial court directed to reimposed the sentence with the exception that it is to strike the enhancements under section 12022.5 on Counts 1 and 2.

Zelon, J.

We concur: Perluss, P.J.
Johnson, J.

B171583 Consumer Cause, Inc.,
v.
Mrs. Gooch's Natural Food markets, Inc., et al.,
Giampetro

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B170609 Taubman (Not for Publication)
v.
U.S. Bank, N.A., et al.,

B173609 Taubman
v.
Taubman

The judgments and orders are affirmed. Respondent(s) to recover costs.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

DIVISION SEVEN (Continued)

B176000 Los Angeles County, D.C.S. (Not for Publication)
v.
Kim W., et al.,

The orders denying Kim W.'s section 388 petition and terminating her parental rights are reversed. The cause is remanded to the juvenile court with directions to conduct a new hearing on the petition consistent with the views expressed in this opinion and taking into consideration any developments occurring after the entry of orders appealed from. If appropriate after such hearing the court shall hold a new hearing pursuant to section 366.26.

The order terminating Frank A.'s parental rights is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
 Zelon, J.

B159414 People (Not for Publication)
v.
Lincoln

The convictions for assault with a firearm are affirmed. The convictions for attempted voluntary manslaughter are reversed and the case remanded for further proceedings. In the event the People elect not to retry the attempted voluntary manslaughter offense or, if Lincoln is retried and found not guilty of attempted voluntary manslaughter, the trial court shall lift its stay of execution of the sentence previously imposed on the assault counts.

Woods, J.

We concur: Perluss, P.J.
 Zelon, J.

March 30, 2005 (Continued)

DIVISION SEVEN (Continued)

B177959 People (Not for Publication)
v.
Tellez

The appeal is dismissed.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

DIVISION EIGHT

B171882 People (Not for Publication)
v.
Brand

The judgment is affirmed.

Boland, J.

We concur: Cooper, P.J.
Flier, J.

B168978 People (Not for Publication)
v.
Evans

B179434 In re Joseph Evans on Habeas Corpus

The abstract of judgment and clerk's transcript shall be modified to reflect the sentencing set forth in footnote one. In all other respects, the judgment is affirmed. The petition for writ of habeas corpus, In re Joseph Evans (B179434), is denied.

Cooper, P.J.

We concur: Boland, J.
 Flier, J.

DIVISION EIGHT (Continued)

B173915 Los Angeles County, D. (Not for Publication)
v.
Reginald G.

The order denying Reginald's petition under section 388 is vacated and the matter is remanded to the juvenile court with directions to order compliance with rule 1439. If after proper inquiry and notice, no response is received from a tribe indicating that Kobe and Maya are Indian children, the juvenile court's order denying Reginald's petition shall be reinstated. If a tribe determines that Kobe and Maya are Indian children, or if other information is presented to the juvenile court that suggests the minors are Indian children as defined by rule 1439, the juvenile court is ordered to conduct a new hearing on Reginald's section 388 petition in conformity with rule 1439.6

Flier, J.

We concur: Cooper, P.J.
Rubin, J.

B175112 People (Not for Publication)
v.
Usher,

The judgment is affirmed.

Flier, J.

We concur: Rubin, Acting P.J.
Boland, J.

DIVISION EIGHT (Continued)

B175127 Los Angeles County, D.C.S. (Not for Publication)
v.
Valerie S.,
In re Mamia B. et al., Persons coming Under the Juvenile Court Law.

The order of the juvenile court is affirmed.

Cooper, P.J.

We concur: Boland, J.
 Flier, J.

B171921 James Green (Certified for Publication)
v.
Workers Compensation Appeals Board
City Of Compton, Respondent

The vocational rehabilitation benefits awarded by the WCAB are final. The WCAB's award of increased compensation for temporary and permanent disability indemnity and medical benefits is annulled. The matter is remanded for application of S.B. 899 and new section 5814, and for further proceedings consistent with this opinion.

Rubin, J.

We concur: Cooper, P.J.
 Flier, J.

B171629 People (Not for Publication)
v.
Eason

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
 Flier, J.

DIVISION EIGHT (Continued)

B177217 State Compensation Insurance Fund (Not for Publication)

v.

Workers Compensation Appeals Board and Bobbies Singleton

The WCAB's award of increased compensation under former section 5814 is annulled and the matter is remanded for application of new section 5814, and for further proceedings consistent with this opinion.

Rubin, J.

We concur: Cooper, P.J.
 Flier, J.

B175592 People (Not for Publication)

v.

Dodson

The case is reversed and remanded with instructions to the trial court to strike the relevant allegations consistent with this opinion. In all other respects, the judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
 Boland, J.

B176538 Peng (Not for Publication)

v.

City Of Montebello

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
 Boland, J.

March 30, 2005 (Continued)

DIVISION EIGHT (Continued)

B177278 People v. Milner (Not for Publication)

The judgment is affirmed.

Cooper, P.J.

We concur: Boland, J.
Flier, J.